IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1979 OF 2005

Mr.Govindaswamy ...Petitioner
V/s.
Fynavox Electronics Ltd. & Anr. ...Respondents

Ms.Sunita Sharma i/b. Mr.S.V. Marwadi for the Petitioner.
Mr.V.M. Talreja for Respondent No.1.
Mr.Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : SEPTEMBER 13, 2007

P.C. :-

. Heard the learned Counsel for the petitioner and the learned Counsel for the respondent.

2. The petitioner is challenging an order of issuance of process by the trial Court in a complaint filed by the respondent under Section 138 of the Negotiable Instruments Act.

3. It is submitted that the complaint is filed against the partnership firm and no averments have been made in the complaint and therefore, the said complaint is not maintainable.

4. The learned Counsel invited my attention to the averments made in the complaint. It was also pointed out that acknowledgement receipt was also given on behalf of M/s.Kavita Impex. It is submitted that therefore, the process was liable to be quashed.

5. It is not possible to accept the said submission. A specific averment is made in the complaint that Mr.Govidaswamy is the proprietor of M/s.Kavita Impex and there is no averment that he is a partner of a firm. As a result, there is no infirmity in the order passed by the Magistrate issuing process against the applicant herein.

6. Hence, petition is dismissed.

7. The trial Court is directed to decide the case, as expeditiously as possible. The grounds raised in this petition are kept open. The trial Court shall decide the same after evidence is led by both the parties. The petitioner, however, is permitted to

appear before the trial Court on the next date and non-bailable warrant shall stand cancelled. However, if the petitioner does not appear in the trial Court on the next date, the trial Court is at liberty to pass such orders as it deems fit and proper.

8. The petitioner to appear in the trial Court on 3rd October, 2007.

9. Interim order stands vacated. Writ Petition is disposed of in the above terms.

. Parties to act on the authenticated copy of this order.

(V.M. KANADE, J.)